

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

IN RE A.M., a Person Coming Under the  
Juvenile Court Law.

H047266  
(Santa Cruz County  
Super. Ct. No. 18JU00165)

THE PEOPLE,

Plaintiff and Respondent,

v.

A.M.,

Defendant and Appellant.

The minor, A.M., entered no contest pleas to allegations that he committed attempted murder (Pen. Code, §§ 664, 187, subd. (a)),<sup>1</sup> robbery (§ 211), and assault with a deadly weapon (§ 245, subd. (a)(1)), and that he personally inflicted great bodily injury in the commission of the assault (§ 12022.7, subd. (a)). The juvenile court initially committed the minor to the Division of Juvenile Justice (DJJ)<sup>2</sup> but later modified the order, finding him suitable for ranch camp placement.

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup> The Legislature expressed its intent to “remove” the DJJ from the Department of Corrections and Rehabilitation and “reestablish” it as the Department of Youth and Community Restoration under the California Health and Human Services Agency, (continued)

On appeal, the minor's appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) that states the case and facts but raises no issue. We notified the minor of his right to submit written argument on his own behalf within 30 days. That period has elapsed, and we have received no response from the minor.

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction in *Kelly, supra*, at page 110, we provide a brief description of the facts and the procedural history of the case.

### **BACKGROUND**

On July 11, 2018, a petition under Welfare and Institutions Code section 602 was filed alleging that the 16-year-old minor committed robbery (§ 211; count 1) and assault with a deadly weapon, brass knuckles (§ 245, subd. (a)(1); count 2). The petition also alleged that the minor personally used a deadly and dangerous weapon, brass knuckles, in the commission of the robbery and the assault (§ 12022, subd. (b)(1)), and that he personally inflicted great bodily injury on the victim in the commission of the assault (§ 12022.7, subd. (a)).

On March 28, 2019, an amended petition was filed adding a third count, which alleged that the minor committed attempted murder (§§ 664, 187, subd. (a)).

On May 24, 2019, on motion of the prosecutor, the petition was further amended regarding the identity of the victim of the robbery, and the personal-use allegations regarding the robbery and assault were dismissed. The minor entered no contest pleas to the remaining allegations that he committed attempted murder, robbery, and assault with a deadly weapon, and that he personally inflicted great bodily injury in the commission of the assault. (See Cal. Rules of Court, Rule 5.778(e) [a "child may enter a plea of no

---

"with the transfer completed by July 1, 2020." (Gov. Code, § 12820, subd. (a); see Welf. & Inst. Code, § 1710.) As the relevant proceedings in this case took place before the transfer, we continue to use the name DJJ in this opinion.

contest to the allegations”].) The parties stipulated to a factual basis for the plea based on the following information. The minor and other juveniles “conspired and worked together to enter the home” of one of the victims. The minor and the other juveniles took personal property by force. The minor struck one of the victims with brass knuckles, causing serious bodily injury, and another juvenile struck a victim in an attempt to murder him. The juvenile court accepted the minor’s no contest pleas and found the allegations true.

The probation officer recommended that the minor be committed to a ranch camp although the sustained findings made the minor eligible for the DJJ. The probation officer stated that there did “not appear to be one compelling factor in this case that explain[ed] how . . . [the minor] could be involved in such a brutally violent offense.” The probation officer noted that the minor reported smoking marijuana every day and selling marijuana to support his habit during the time leading up to the incident. The probation officer indicated that the minor was at low risk of recidivism, had no prior criminal history, and, since being in juvenile hall, had proved he could “thrive in a highly structured environment and [was] committed to working hard to achieve his goals.”

A contested dispositional hearing was held on July 10, 2019. Prior to the hearing, the juvenile court received documents regarding the minor, including athletic awards, certificates regarding his involvement in programs at juvenile hall, and letters of support. At the hearing, the court heard statements from the victims’ families and from individuals in support of the minor.

The minor requested that he be allowed “to go home on wraparound services.” He argued that he had fully participated in every rehabilitative service that was provided while he was in custody for the past year. The minor indicated that while in counseling, he had expressed regret for his involvement in the crime and had looked at his bad decision-making. He also had numerous people supporting him, including his family and

former athletic coaches. At the hearing, the minor apologized to the victims, his own family, and the court.

The prosecutor argued that the minor should be sent to the DJJ. The prosecutor contended that the incident “was not a spur-of-the-moment attack,” but rather a “well-thought-out, planned home invasion.” The prosecutor characterized the incident as a “tragedy,” with three sleeping victims being struck, including one who “had a hole in his head” from being hit with a hammer, and the incident “was for nothing, for a bunch of marijuana” that was sought to be taken by the assailants. The prosecutor contended that the minor was capable of being rehabilitated, but that sending him home, or to a ranch camp, was “not enough.”

The juvenile court declared the minor a ward of the court and committed him to the DJJ. The court referred to, among other factors, the seriousness and circumstances of the incident, including the planning of the incident and the use of weapons on sleeping victims. The court set a maximum period of confinement of 14 years. The court ordered victim restitution, with the minor jointly and severally liable with the three other juveniles involved in the incident.

On July 22, 2019, the minor filed a written request that the juvenile court reconsider the dispositional order committing him to the DJJ. He contended that there was no evidence at the dispositional hearing demonstrating that a DJJ commitment would benefit him, and that less restrictive alternatives were ineffective or inappropriate. In the alternative, he requested a stay of the order committing him to allow time for him to seek writ relief.

On July 24, 2019, the juvenile court granted a motion to stay the minor’s transport to the DJJ for 90 days.

On August 13, 2019, the prosecutor filed a written objection to the minor’s request for reconsideration of the order committing him to the DJJ. The prosecutor contended

that the minor's request was procedurally improper, and that the order committing him to the DJJ was not an abuse of discretion.

The minor filed a written reply, arguing that he would have provided additional evidence at the dispositional hearing if knew that the court was considering sending him to the DJJ. The minor filed supporting declarations from counsel and others, including a declaration from the chief probation officer for the county, who stated his "opinion that DJJ will be a harmful placement for [the minor]" and would "impede his rehabilitation."

On October 23, 2019, a hearing was held on the minor's request for reconsideration. After argument from counsel, the juvenile court stated that it was modifying the previous disposition order. The court declared the minor a ward of the court; placed him under the care, custody, and control of the probation officer under specified terms and conditions; and found the minor suitable for a ranch camp placement. The court ordered restitution to the three victims in an amount to be determined and \$9,401.60 to the California Victim Compensation Board. The court ordered the minor jointly and severally liable for those amounts with the three other juveniles involved in the incident. The minor was also ordered to stay 100 yards away from, and have no contact with, specified individuals, including the victims and the other juveniles involved in the incident. The court awarded the minor 471 days custody credits.

On September 6, 2019, the minor filed a notice of appeal from the original July 10, 2019 dispositional order committing him to the DJJ. On November 21, 2019, the minor filed a notice of appeal from the October 23, 2019 order modifying the original dispositional order and finding him suitable for ranch camp placement.

## **DISCUSSION**

The record reflects that the minor's maximum period of confinement was not specified in the October 23, 2019 order committing him to the care, custody, and control of the probation officer for placement in a ranch camp. (See Welf. & Inst. Code, § 726, subd. (d)(1), (5); Cal. Rules of Court, rule 5.795(b).) In supplemental briefing, the parties

agree that the juvenile court should have specified in the order that the minor's maximum period of confinement is 12 years. The 12 year period is calculated as follows: the upper term of nine years for attempted murder, a consecutive term of one year for robbery (one-third the midterm), a consecutive term of one year for assault with a deadly weapon (one-third the midterm), and one year for the great bodily injury enhancement (one-third the three-year enhancement). (See Welf. & Inst. Code, § 726, subd. (d)(3); Pen. Code §§ 1170.1, subd. (a), 1170.11.) We will modify the October 23, 2019 order accordingly.

Having carefully reviewed the entire record and ordered modification of the October 23, 2019 order to reflect that the minor's maximum period of confinement is 12 years, we conclude that there is no arguable issue on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

#### **DISPOSITION**

The October 23, 2019 order is modified to reflect that the minor's maximum period of confinement is 12 years. As so modified, the order is affirmed.

---

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

---

GREENWOOD, P.J.

---

DANNER, J.

*People v. A.M.*  
**H047266**